



1 TO THE COURT AND ALL PARTIES OF RECORD

2 Please take notice of the Motion to Consolidate attached hereto as Exhibit 1 filed by  
3 STMicroelectronics, Inc. in Case No. 05-04691 JF on May 9, 2008.

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7 Dated: May 9, 2008

SIDLEY AUSTIN LLP

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9 By: /s/ Russell L. Johnson  
Russell L. Johnson

10 Attorneys for Defendants  
11 STMicroelectronics, Inc.  
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# **Exhibit 1**

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Attorneys for Plaintiff  
STMicroelectronics, Inc.

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

STMICROELECTRONICS, INC.,  
a Corporation,

Plaintiff,

vs.

ELIYAHOU HARARI, an individual;  
SANDISK CORPORATION, a corporation; and  
DOES 1 TO 20, inclusive

Defendants.

) Case Nos. C 08-02332 MMC  
) C 05-04691 JF  
)

) **PLAINTIFF STMICROELECTRONICS,**  
) **INC.'S UNOPPOSED ADMINISTRATIVE**  
) **MOTION FOR AN IMMEDIATE ORDER**  
) **CONSOLIDATING CASES**

) **Date: N/A**  
)

) **Time: N/A**  
)

) **Ctrm: 3 (Hon. Jeremy Fogel)**  
)  
)

**MOTION**

Plaintiff STMicroelectronics, Inc. (“ST”) hereby moves for an immediate order consolidating the instant case, *STMicroelectronics, Inc. v. Harari et al*, Case No. C 08-02332 MMC, removed from state court for a second time on May 6, 2008, with the same case *STMicroelectronics, Inc. v. Harari et al*, Case No. C 05-0469 JF, previously removed to this Court on November 16, 2005 and remanded to state court on July 18, 2006. Removal of this case from state court a second time has resulted in the *same* case being assigned to two different judges under *two different* case numbers. ST requests that these cases be consolidated under the earlier docket number. The benefit of consolidation is that all the papers filed in this Court in this case will be in a single file under one case number.

**REASONS SUPPORTING REQUEST**

On November 16, 2005, SanDisk Corp. (“SanDisk”) removed the complaint in this case from state court to this Court, where it was assigned Case No. C 05-04691. Docket No. 1. On February 3, 2006, this Court issued an order finding that Case No. C 05-04691 was related to Case Nos. C 04-04379, C 5-05021, and C 06-00194 (which has since been voluntarily dismissed by SanDisk). Case No. C 05-04691, Docket No. 9.

On July, 18, 2006, this Court granted ST’s motion to remand C 05-040691 JF back to California State Court. Docket No. 93. Almost two years later, on May 6, 2008, defendants removed this case a second time, without indicating that it had been previously removed and already been assigned a case number. As a result on May 6, 2008, this case was assigned a second case number, C 08-02332 MMC.

Yesterday, defendants filed a motion to transfer C 08-02332 MMC to Judge Fogel because it is a related case. Declaration of Russell L. Johnson in Support of Motion to Consolidate (“Johnson Decl.”), Exhibit A. Included in the filing is a stipulation by all parties that this cases should be assigned to Judge Fogel under Civil L.R. 3-12. Johnson Decl. Ex. B.

1 ST now requests consolidation of C 08-02332 MMC with C 05-040691 JF, the transfer of all  
2 papers filed in C 08-02332 MMC to C 05-040691 JF and that all future filings in this case be done  
3 under the C 05-040691 JF case number. The benefit of this request is that all the papers filed in this  
4 case in this Court will be in one file under one case number.

5 On Thursday, May 8, 2008, the parties met and conferred on this motion. Defendants do not  
6 oppose this motion. Johnson Decl., ¶ 2.

7  
8 Dated: May 9, 2008

SIDLEY AUSTIN LLP

9  
10 By: /s/ Russell L. Johnson  
Russell L. Johnson

11 Attorneys for Defendants  
12 STMicroelectronics, Inc.  
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Attorneys for Plaintiff  
STMicroelectronics, Inc.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

STMICROELECTRONICS, INC.,  
a Corporation,

Plaintiff,

VS.

ELIYAHOU HARARI, an individual;  
SANDISK CORPORATION, a corporation; and  
DOES 1 TO 20, inclusive

Defendants.

Case Nos. C 08-02332 MMC  
C 05-04691 JF

**DECLARATION OF RUSSELL L. JOHNSON IN SUPPORT OF PLAINTIFF STMICROELECTRONICS, INC.'S ADMINISTRATIVE MOTION FOR AN IMMEDIATE ORDER CONSOLIDATING CASES**

**Date: N/A**

**Time: N/A**

**Ctrm: 3 (Hon. Jeremy Fogel)**

1 I, Russell L. Johnson, declare and state:

2 1. I am a member of the firm Sidley Austin LLP, and am one of the attorneys of record  
3 for Plaintiff STMicroelectronics, Inc. ("ST"). I make this declaration in support of ST's  
4 Administrative Motion To Consolidate Cases.

5 2. Counsel for Defendants' Sandisk Corp. and Eliyahou Harari stated they do not  
6 oppose consolidation Case Nos. C 08-02332 MMC and 05-040691 JF during a telephonic meet and  
7 confer on May 8, 2008.

8 3. Attached hereto as Exhibit A is a true and correct copy of SanDisk's Administrative  
9 Motion to Consider Whether Cases Should be Related Cases filed on May 8, 2008, in Case No. 04-  
10 04379 JF.

11 4. Attached hereto as Exhibit B is a true and correct copy of the parties stipulation filed  
12 in support of Administrative Motion to Consider Whether Cases Should be Related Cases in Case  
13 No. 04-04379 JF.

14 I declare under penalty of perjury that the foregoing is true and correct. Executed at San  
15 Francisco, California on this 9th day of May, 2008.

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/s/  
Russell L. Johnson



# **Exhibit A**

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Attorneys for Plaintiff  
SANDISK CORPORATION

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SANDISK CORPORATION, a Delaware  
corporation  
  
Plaintiff,  
  
v.  
  
STMICROELECTRONICS, INC., a Delaware  
corporation,  
STMICROELECTRONICS N.V., a Dutch  
company, and DOES I to X,  
  
Defendants.

Case No.: C 04-4379 JF  
Consolidated With Case No. C 05-5021 JF

**ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES  
SHOULD BE RELATED**

**(N.D. Cal. Civ. L.R. 3-12)**

1 TO THE COURT AND ALL PARTIES OF RECORD:

2 Pursuant to N.D. Cal. Civ. L.R. 3-12, plaintiff SanDisk Corporation (“SanDisk”) files this  
3 Administrative Motion to Consider Whether Cases Should Be Related. SanDisk respectfully  
4 requests that the Court deem the following cases, previously or currently pending in the Northern  
5 District of California, related:

- 6 • *SanDisk Corp. v. STMicroelectronics, Inc., et al.*, Case No. C 04-4379 JF, filed  
7 October 15, 2004 (“Case No. 04-4379”);
- 8 • *SanDisk Corp. v. STMicroelectronics, Inc.*, Case No. C 05-5021 JF, filed  
9 December 6, 2005 (“Case No. 05-5021”)<sup>1</sup>;
- 10 • *STMicroelectronics, Inc. v. Harari et al.*, Case No. C 05-4691 JF, filed November  
11 16, 2005 (“Case No. C 05-4691”) and terminated July 18, 2006<sup>2</sup>; and
- 12 • *STMicroelectronics, Inc. v. Harari, et al.*, Case No. C 08-2332 MMC, filed May  
13 6, 2008 (“Case No. 08-2332”).

14 SanDisk and STMicroelectronics, Inc. are opposing parties in each of the four cases listed  
15 above. In addition, each of the four actions concerns similar property, transactions or events, and  
16 calls for the determination of substantially similar questions of law and fact. Case No. 08-2332  
17 concerns the issue of SanDisk’s right of ownership over certain of its patents, including  
18 SanDisk’s U.S. Patent No. 5,172,338, which is at issue in Case No. 04-4379, and U.S. Patent No.  
19 5,991,517, which is at issue in Case No. 05-5021. Case No. C 05-4691 was the case number  
20 assigned to this case when it was previously removed to this Court. Furthermore, all parties to  
21 these actions reside within this judicial district.

22 Given these similarities, the litigation of these cases before different judges would result  
23 in an unduly burdensome duplication of labor and expense for all parties involved and for the

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25 <sup>1</sup> The Court previously consolidated Case Nos. 04-4379 and 05-5021. *See* Minute Order,  
dated 6/29/07.

26 <sup>2</sup> The Court previously deemed Case No. 05-4691 to be related to Case No. 04-4379. *See*  
27 Order Relating Case, dated 11/23/2005.

1 Court. Consequently, SanDisk respectfully requests that the Court deem these actions related  
2 and reassign Case No. 08-2332 to Judge Fogel.

3 ///

4  
5 Dated: May 8, 2008

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

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7  
8 By: /s/ Michael A. Ladra  
Michael A. Ladra

9 Attorneys for Plaintiff  
10 SANDISK CORPORATION  
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# Exhibit B

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Attorneys for Plaintiff  
SANDISK CORPORATION

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SANDISK CORPORATION, a Delaware  
corporation  
Plaintiff,  
v.  
STMICROELECTRONICS, INC., a Delaware  
corporation,  
STMICROELECTRONICS N.V., a Dutch  
company, and DOES I to X,  
Defendants.

Case No.: C 04-4379 JF  
Consolidated With Case No. C 05-5021 JF

**STIPULATION TO  
ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES  
SHOULD BE RELATED**

**(N.D. Cal. Civ. L.R. 3-12 and 7-11)**

1 WHEREAS, the following actions are currently pending before the Honorable Jeremy  
2 Fogel:

- 3 • The above captioned *SanDisk Corp. v. STMicroelectronics, Inc. et al.*, Case No.  
4 C 04-4379 JF, filed October 15, 2004 (“Case No. 04-4379”); and
- 5 • Consolidated case *SanDisk Corp. v. STMicroelectronics, Inc. et al.*, Case No.  
6 C 05-5021 JF, filed December 6, 2005 (“Case No. 05-5021”);

7 WHEREAS, *STMicroelectronics, Inc. v. Harari et al*, Case No. C 05-4691 JF, filed  
8 November 16, 2005 (“Case No. C 05-4691”) and terminated July 18, 2006 was previously  
9 deemed related to Case Nos. 04-4379 and 05-5021; and

10 WHEREAS, *STMicroelectronics, Inc. v. Harari, et al.*, Case No. C 08-2332 MMC,  
11 (“Case No. 08-2332”) was removed to the Northern District of California on May 6, 2008 and  
12 assigned to the Honorable Maxine M. Chesney in the San Francisco Division;

13 WHEREAS, Case No. 08-2332 concerns substantially similar parties, property,  
14 transactions or events, and calls for the determination of substantially similar questions of law  
15 and fact as Case Nos. 04-4379, 05-5021 and 05-4691;

16 WHEREAS, litigation of Case No. 08-2332 and Case Nos. 04-4379 and 05-5021 before  
17 different judges would result in an unduly burdensome duplication of labor and expense for the  
18 Parties and the Court;

19 WHEREAS, the Parties agree that, pursuant to N.D. Cal. Civ. L.R. 3-12, Case No. 08-  
20 2332 is related to Case Nos. 04-4379, 05-5021 and 05-4691;

21 ///

1 NOW THEREFORE, the Parties, by and through their counsel, hereby request, stipulate,  
2 and agree that Case No. 08-2332 be related to Case Nos. 04-4379, 05-5021 and 05-4691 and be  
3 reassigned to the Honorable Jeremy Fogel.

4  
5 Dated: May 8, 2008

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

6  
7  
8 By: /s/ Michael A. Ladra  
Michael A. Ladra

9 Attorneys for Plaintiff  
SANDISK CORPORATION

10 Dated: May 8, 2008

SIDLEY AUSTIN LLP

11  
12  
13 By: /s/ Russell L. Johnson  
Russell L. Johnson

14 Attorneys for Defendants  
15 STMICROELECTRONICS, INC. and  
16 STMICROELECTRONICS N.V.  
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**ATTESTATION CLAUSE**

I, Michael A. Ladra, am the ECF User whose identification and password are being used to file this Joint Stipulation. In compliance with General Order 45.X.B., I hereby attest that Russell L. Johnson of Sidley Austin LLP has concurred in this filing.

Dated: May 8, 2008

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By: /s/ Michael A. Ladra  
Michael A. Ladra

Attorneys for Plaintiff  
SANDISK CORPORATION



1 Having considered Plaintiff STMicroelectronics, Inc.'s ("ST") Motion To Consolidate Cases  
2 and good cause appearing therefor, I hereby find that:

3 1. I am the judge assigned to the earliest filed case in the notice of related cases filed by  
4 defendants.

5 2. *STMicroelectronics, Inc. v. Harari et al*, Case No. C 08 02332 MMC, removed from  
6 state court on May 6, 2008, should be assigned to me under Civil L.R. 3-12 because: (i) it is the  
7 same case as *STMicroelectronics, Inc. v. Harari et al*, Case No. C 05-04691 JF, previously removed  
8 to this Court on November 16, 2005 and assigned to me and remanded to state court by me on July,  
9 18, 2006.

10 IT IS HEREBY ORDERED that:

11 1. *STMicroelectronics, Inc. v. Harari et al*, Case No. C 08 02332 MMC and  
12 *STMicroelectronics, Inc. v. Harari et al*, Case No. C 05-04691 JF are hereby consolidated.

13 2. All future filings in *STMicroelectronics, Inc. v. Harari et al*, shall be in Case No.  
14 C 05-04691 JF.

15 3. All papers filed in Case No. C 08 02332 MMC shall be transferred to Case No.  
16 C 05-04691 JF.

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18  
19 Dated: May \_\_\_, 2008

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20 UNITED STATES DISTRICT JUDGE  
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